



IT IS HEREBY ADJUDGED and DECREED that the below described is DENIED.

Dated: February 13, 2013

John C. Akard

JOHN C. AKARD
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

In Re:

DHC REALTY, LLC,

Debtor.

DHC REALTY, LLC, CHOWAIKI
HOLDINGS, LLC, EL PASO DHC
ENTERPRISES, LLC, EL PASO DHC
ENTERPRISES FAR EAST, LLC,
EL PASO DHC ENTERPRISES
WEST, LLC, and DAVID CHOWAIKI,

Plaintiffs,

v.

ARMANDO ARMENDARIZ,
YVETTE ARMENDARIZ,
and HECTOR ARMENDARIZ,

Defendants.

Case No. 11-30977-HCM

Adversary No. 12-03012-HCM

ORDER REGARDING PLAINTIFFS' MOTION TO COMPEL
AND FOR SANCTIONS AGAINST HECTOR ARMENDARIZ

On this date came on to be heard Plaintiffs' Motion to Compel and for Sanctions Against Armendariz (hereinafter the "Motion"). The Court finds that written discovery was served on Defendant Hector Armendariz in the time and manner prescribed by the Federal Rules of Civil Procedure. The Court further finds that Defendant Hector Armendariz has made invalid objections, has given evasive answers, and has not fully and properly answered Plaintiffs' Interrogatories or Requests for Production of Documents.

Accordingly, the Court finds that Plaintiffs' Motion To Compel and for Sanctions Against Hector Armendariz should be granted. The Court further finds that Defendant Hector Armendariz's invalid objections, evasive answers, and failure to fully and properly answer Plaintiffs' Interrogatories and Requests for Production was without substantial justification, that no other circumstances exist which would make an award of expenses to Plaintiffs unjust, and accordingly the Court finds that Plaintiffs are entitled to recover \$2,500.00 as reasonable attorney's fees and expenses incurred in obtaining this order. It is therefore

ORDERED, ADJUDGED AND DECREED that Plaintiffs' Motion To Compel and for Sanctions Against Hector Armendariz is hereby **sustained or denied** with regard to Plaintiffs' discovery sought from Defendant Hector Armendariz as set forth hereinbelow:

INTERROGATORIES

INTERROGATORY NO. 3:

If you contend that Plaintiffs' claims are barred in whole or in part by fraud, please set forth all of the facts and evidence that you intend to use to support that defense, identify all documents (by title, date, author, custodian and a summarization of contents) that you intend to use to support that defense, and identify all persons who have knowledge of facts supporting that defense.

SUSTAINED _____

DENIED _____

Defendant Hector Armendariz MUST/NEED NOT supplement his answer this Interrogatory.

INTERROGATORY NO. 4:

If you contend that Plaintiffs' claims are barred in whole or in part by the doctrine of unclean hands, please set forth all of the facts and evidence that you intend to use to support that defense, identify all documents (by title, date, author, custodian and a summarization of contents) that you intend to use to support that defense, and identify all persons who have knowledge of facts supporting that defense.

SUSTAINED _____

DENIED _____

Defendant Hector Armendariz MUST/NEED NOT supplement his answer this Interrogatory.

INTERROGATORY NO. 5:

If you contend that Plaintiffs' claims are barred in whole or in part by laches, please set forth all of the facts and evidence that you intend to use to support that defense, identify all documents (by title, date, author, custodian and a summarization of contents) that you intend to use to support that defense, and identify all persons who have knowledge of facts supporting that defense.

SUSTAINED _____

DENIED _____

Defendant Hector Armendariz MUST/NEED NOT supplement his answer this Interrogatory.

INTERROGATORY NO. 6:

If you contend that Plaintiffs' claims are barred in whole or in part by the doctrine of waiver, please set forth all of the facts and evidence that you intend to use to support that defense, identify all documents (by title, date, author, custodian and a summarization of contents) that you intend to use to support that defense, and identify all persons who have knowledge of facts supporting that defense.

SUSTAINED _____

DENIED _____

Defendant Hector Armendariz MUST/NEED NOT supplement his answer this Interrogatory.

INTERROGATORY NO. 7:

If you contend that Plaintiffs' claims are barred in whole or in part by the doctrine of equitable estoppel, please set forth all of the facts and evidence that you intend to use to support that defense, identify all documents (by title, date, author, custodian and a summarization of contents) that you intend to use to support that defense, and identify all persons who have knowledge of facts supporting that defense.

SUSTAINED _____

DENIED _____

Defendant Hector Armendariz MUST/NEED NOT supplement his answer this Interrogatory.

INTERROGATORY NO. 8:

If you contend that Plaintiffs' claims are barred in whole or in part because of an accord and satisfaction, please set forth all of the facts and evidence that you intend to use to support that defense, identify all documents (by title, date, author, custodian and a summarization of contents) that you intend to use to support that defense, and identify all persons who have knowledge of facts supporting that defense.

SUSTAINED _____

DENIED _____

Defendant Hector Armendariz MUST/NEED NOT supplement his answer this Interrogatory.

INTERROGATORY NO. 9:

If you contend that Plaintiffs' claims are barred in whole or in part because of a failure of consideration, please set forth all of the facts and evidence that you intend to use to support that defense, identify all documents (by title, date, author, custodian and a summarization of contents) that you intend to use to support that defense, and identify all persons who have knowledge of facts supporting that defense.

SUSTAINED _____

DENIED _____

Defendant Hector Armendariz MUST/NEED NOT supplement his answer this Interrogatory.

REQUESTS FOR PRODUCTION

GENERAL INSTRUCTION

Unless otherwise specified, each request is limited to the time period from January 1, 2006 through the present.

SUSTAINED _____

DENIED _____

REQUEST FOR PRODUCTION NO. 1:

All documents in your name, individually or jointly, or in connection with any other person or entity relating to any savings bank books, records, accounts and memoranda, current as well as those that may have been cancelled.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 2:

All documents relating to any checking accounts, in your name, individually or in connection with any other person or entity, including checkbooks, checkbook stubs, statements, cancelled checks and deposit slips, whether the accounts are current or have been closed.

SUSTAINED _____

DENIED _____

Hector Armendariz **MUST/NEED NOT** supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 3:

All documents relating to stock certificates, bonds, or other securities in your name, individually or jointly, or in connection with any other person or entity, or which may be held in your account, individually, or in conjunction with any other person or entity in any corporation.

SUSTAINED _____

DENIED _____

Hector Armendariz **MUST/NEED NOT** supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 4:

All documents relating to stock brokerage accounts in your name, individually or jointly, or in connection with any other person or entity, including but not limited to, books, records, accounts, monthly statements, statements of transactions and all other papers and memoranda thereof.

SUSTAINED _____

DENIED _____

Hector Armendariz **MUST/NEED NOT** supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 5:

All federal and state income tax returns filed by you for the previous four (4) years (2008, 2009, 2010, and 2011) together with any schedules and worksheets related thereto as well as all other papers and memoranda referring to any adjustment made in connection therewith.

SUSTAINED _____

DENIED _____

Hector Armendariz **MUST/NEED NOT** supplement his response and produce documents in response

to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 6:

All documents and contracts relating to the rental and/or lease of safe deposit boxes or vaults in your name, individually or jointly, or in connection with any other person or entity.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 7:

All documents relating to deeds or conveyances of real property in your name, individually or jointly, or in connection with any other person or entity, or of which you, individually or jointly, are the legal beneficiary or equitable owner or have any interest therein.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 8:

All documents relating to monies received and being presently received by you from all sources, including but not limited to, accounts receivable, wages, earnings, draws, dividends, bonuses, automobile sales, real property leases, or reimbursed expenses, for the preceding four (4) years.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 9:

All documents relating to policies of insurance covering your or real or personal property owned by you, including but not limited to life, liability, accident, home, and automobile, and all records showing payments for premiums therefor.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 10:

All documents relating to your memberships in and contributions to any charity or any other organizations or associations, including private or professional clubs or associations.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 11:

All documents relating to any business entity in which you have an interest, individually or jointly, or in conjunction or partnership with any other individual or entity, including, but not limited to, books, records, general ledgers, general journals, cash journals, payroll records, purchase and sales journals, petty cash records, bank statements, and cancelled checks.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 12:

All records for any corporation which you, individually or jointly, hold stock directly or indirectly if the corporation records are under your actual or constructive control.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 13:

All documents relating to the title of any assets held by you, individually or jointly, whether presently owned by you, individually or jointly, or previously transferred by or to you within the preceding four (4) years.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 14:

All documents relating to bills and/or purchase price for items costing in excess of \$500.00 owned by you and records concerning acquisition of same.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 15:

All documents relating to bills and/or purchase price for items costing in excess of \$500.00 which you claim to be exempt property and records concerning acquisition of same.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 16:

All documents relating to any business enterprise of Hector Armendariz, including but not limited to, real estate purchase contracts, deeds, lease agreements, rental agreements, security deposits, mortgages, mortgage balance sheets, monthly mortgage payments, and all other documentation relating thereto.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 17:

All documents relating to financial statements, together with the schedules and worksheets thereof and all other papers, and memoranda for financial statements prepared or submitted by you

to any individual or institution for the preceding five (5) years.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 18:

All documents relating to debts which are owed to you by any person or entity, including but not limited to, promissory notes, IOU notes and/or accounts receivable.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 19:

All real property leases between you and any current or past employee of the Fuddruckers restaurants in El Paso, Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 20:

All contracts or leases involving automobiles by and between you and any past or current employees of the Fuddruckers restaurants in El Paso, Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 21:

All documents memorializing any contracts or financial transactions by and between you and any current or past employees of the Fuddruckers restaurants in El Paso, Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 22:

All monthly credit card statements for all credit cards issued in your name or used by you since January 1, 2008.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 23:

All applications or documents submitted by you since January 1, 2008 to the Texas Department of Public Safety, Texas Department of Transportation, the Texas State Comptroller, or the Texas Secretary of State in order to obtain a license or to qualify generally to do business in the state of Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 24:

All documents relating to your purchase or sale of any automobiles since January 1, 2008.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 25:

All quarterly sales tax reports submitted by you to the Texas State Comptroller relating to your sales of automobiles, trucks, or boats in the state of Texas since January 1, 2008.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 26:

If you have provided financing to anyone who has purchased an automobile, truck, or boat from you since January 1, 2008, produce all documents memorializing these credit transactions.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 27:

All monthly phone bills for you, your household, and for anyone living at your household since January 1, 2009.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 29:

All documents in your possession, custody or control related to the catering business of the Fuddruckers restaurants in El Paso, Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 30:

All documents memorializing any communications received or sent by you with current or past employees of the Fuddruckers restaurants in El Paso since January 1, 2009.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 31:

All documents memorializing any communications received or sent by you with catering customers of the Fuddruckers restaurants in El Paso, Texas since January 1, 2009.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 32:

All computer files or discs in your possession, custody or control that include any information related to the business of Fuddruckers in El Paso, Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 33:

All documents memorializing communications sent by you or received by you from or with any suppliers, vendors, employees, ex-employees, family, or friends relating to the business of Fuddruckers restaurants in El Paso, Texas, since January 1, 2008.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 34:

All documents in your possession, custody or control related to employee files or ex-employee files or personnel who have worked for Fuddruckers restaurants in El Paso, Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 35:

All records related to charitable contributions made by you utilizing Fuddruckers of El Paso's materials, food, or other items of value during the time that you have been employed by El Paso DHC Enterprises Far East, LLC and/or its related Fuddruckers restaurants in El Paso, Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 36:

All records of food purchases made by you since January 1, 2010.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 37:

Any records related to the vending machines located in the Fuddruckers restaurants in El Paso, Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 38:

Any invoices or contracts in your possession related to the catering business or any other business of the Fuddruckers restaurants in El Paso, Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 39:

All documents memorializing any cash payments received by you, rebates received by you, gifts received by you, or any items of value received by you or anyone in your household provided by customers or by vendors/suppliers with a relationship to the Fuddruckers restaurants in El Paso, Texas. This would necessarily include suppliers, vendors, employees, ex-employees, relatives, friends, military personnel, or anyone else who has provided anything of value to you because of your relationship with El Paso DHC Enterprises Far East, LLC and/or the Fuddruckers restaurants in El Paso, Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 41:

All inventory records in your possession related to the business of Fuddruckers restaurants in El Paso, Texas.

SUSTAINED _____

DENIED _____

Hector Armendariz MUST/NEED NOT supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

REQUEST FOR PRODUCTION NO. 42:

All documents related to any purchases by you on behalf of Fuddruckers restaurants in El Paso, Texas since January 1, 2008.

SUSTAINED _____

DENIED _____

Hector Armendariz **MUST/NEED NOT** supplement his response and produce documents in response to the above Request in order to address Plaintiffs' issues raised relative thereto.

Defendant Hector Armendariz is **FURTHER ORDERED** to deliver to Corey W. Haugland, Plaintiffs' attorney of record, at the offices of James & Haugland, P.C., 609 Montana Avenue, El Paso, Texas 79902 on or before 5:00 p.m. on _____, 20__, supplemental answers to the Interrogatories identified hereinabove wherein the Court has sustained Plaintiffs' arguments; and,

Defendant Hector Armendariz is **FURTHER ORDERED** to deliver to Corey W. Haugland, Plaintiffs' attorney of record, at the offices of James & Haugland, P.C., 609 Montana Avenue, El Paso, Texas 79902 on or before 5:00 p.m. on _____, 20__, copies of all documents responsive to the Requests for Production identified hereinabove wherein the Court has sustained Plaintiffs' arguments; and,

IT IS FURTHER ORDERED AND ADJUDGED that Plaintiffs shall recover from Defendant Hector Armendariz, \$2,500.00 for reasonable attorney's fees and expenses which shall be delivered to Corey W. Haugland, Plaintiffs' attorney of record, at the offices of James & Haugland, P.C., 609 Montana Avenue, El Paso, Texas 79902 on or before 5:00 p.m. on _____, 20__. Said sanctions are awarded as court costs, and shall be duly noted by the Clerk of this Court.

All relief not granted herein is hereby denied.

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Submitted by:
Corey W. Haugland
State Bar No. 09234200
JAMES & HAUGLAND, P.C.
609 Montana Avenue
El Paso, Texas 79902
Phone: 915-532-3911
FAX: (915) 541-6440
Attorney for Plaintiffs

DENIED